

THIRTY-THIRD DAY - FEBRUARY 26, 2003**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
FIRST SESSION****THIRTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, February 26, 2003

PRAYER

The prayer was offered by Senator Connealy.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Brown who was excused; and Senators Kremer, Landis, Dw. Pedersen, Tyson, and Vrtiska who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-second day was approved.

PRESENTED TO THE GOVERNOR

Presented to the Governor on February 25, 2003, at 12:30 p.m. were the following: LBs 41, 76, 84e, 85e, 85Ae, 90, 126e, 131, 213, 214e, and 217e.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

ANNOUNCEMENTS

Senator D. Pederson designates LB 146 as his priority bill.

Senator Hudkins designates LB 332 as her priority bill.

NOTICE OF COMMITTEE HEARINGS

Revenue
Room 1524

LB 571	Wednesday, March 12, 2003	1:30 p.m.
LB 572	Wednesday, March 12, 2003	1:30 p.m.

LB 783	Wednesday, March 12, 2003	1:30 p.m.
LB 620	Thursday, March 13, 2003	1:30 p.m.
LB 621	Thursday, March 13, 2003	1:30 p.m.
LB 545	Thursday, March 13, 2003	1:30 p.m.
LB 595	Thursday, March 13, 2003	1:30 p.m.
LB 42	Friday, March 14, 2003	1:30 p.m.
LB 622	Friday, March 14, 2003	1:30 p.m.
LB 507	Friday, March 14, 2003	1:30 p.m.
LB 508	Friday, March 14, 2003	1:30 p.m.
LB 509	Friday, March 14, 2003	1:30 p.m.
LB 697	Wednesday, March 19, 2003	1:30 p.m.
LB 657	Wednesday, March 19, 2003	1:30 p.m.
LB 596	Wednesday, March 19, 2003	1:30 p.m.

(Signed) David Landis, Chairperson

AMENDMENT - Print in Journal

Senator Chambers filed the following amendment to LB 292:

FA1184

1. P. 2, line 28, strike the period and add, "only if such organization does not practice discrimination in employment based on sexual orientation".

GENERAL FILE

LEGISLATIVE BILL 233. Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 233A. Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 14 present and not voting, and 6 excused and not voting.

Senators Hudkins and Vrtiska asked unanimous consent to be excused until they return. No objections. So ordered.

LEGISLATIVE BILL 487. Title read. Considered.

The Standing Committee amendment, AM0311, found on page 577, was considered.

SPEAKER BROMM PRESIDING

The Standing Committee amendment was adopted with 27 ayes, 1 nay, 17

present and not voting, and 4 excused and not voting.

Senator Erdman asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

MOTION - Print in Journal

Senator Maxwell filed the following motion to LB 433:

Place LB 433 on General File notwithstanding the action of the Committee pursuant to Rule 3, Sec. 17.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 102A. Introduced by Baker, 44.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 102, Ninety-eighth Legislature, First Session, 2003.

RESOLUTION

LEGISLATIVE RESOLUTION 39. Introduced by Connealy, 16.

WHEREAS, many Nebraska medicare beneficiaries are struggling with the high cost of prescription drugs; and

WHEREAS, the average per capita drug spending by Americans increased at an average annual rate of 9.8% per year between 1990 and 1999 and is expected to grow at a rate of 11.8% per year through 2010; and

WHEREAS, a recent survey of Nebraskans over fifty years of age found that 8% of those surveyed had out-of-pocket prescription drug costs in excess of \$500 per month; and

WHEREAS, Americans over sixty-five years of age account for 13% of the population, 34% of all prescriptions dispensed, and 42% of outpatient prescription drug spending; and

WHEREAS, sixty-nine percent of Nebraskans over sixty-five years of age do not have insurance coverage for prescription drugs; and

WHEREAS, the number of insurance companies that offer prescription drug coverage through medicare supplement insurance policies in the State of Nebraska has dropped from twenty-one in 1996 to three in 2002; and

WHEREAS, medicare does not cover most outpatient prescription drugs, resulting in a shift in coverage of those drugs to the medicaid program; and

WHEREAS, medicare coverage of prescription drugs would reduce the state's obligations for prescription drugs purchased through the medicaid program; and

WHEREAS, Nebraska medicare beneficiaries would benefit from medicare coverage of prescription drugs.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature urges enactment of an affordable, voluntary medicare prescription drug benefit that is available to all medicare beneficiaries, regardless of where they live or the type of medicare coverage they select.

2. That a copy of this resolution be sent to the President of the United States and each member of Nebraska's congressional delegation.

Laid over.

STANDING COMMITTEE REPORTS **Business and Labor**

LEGISLATIVE BILL 332. Placed on General File as amended.

Standing Committee amendment to LB 332:

AM0553

- 1 1. Insert the following new section:
- 2 "Sec. 3. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."

LEGISLATIVE BILL 725. Indefinitely postponed.

LEGISLATIVE BILL 733. Indefinitely postponed.

LEGISLATIVE BILL 752. Indefinitely postponed.

(Signed) Floyd P. Vrtiska, Chairperson

GENERAL FILE

LEGISLATIVE BILL 111. Title read. Considered.

Senator Wehrbein asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

Senator Burling asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT COMMITTEE REPORT **Enrollment and Review**

Correctly Reengrossed

The following bill was correctly reengrossed: LB 216.

(Signed) Ray Mossey, Chairperson

STANDING COMMITTEE REPORT
General Affairs

LEGISLATIVE BILL 266. Indefinitely postponed.

(Signed) Ray Janssen, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 37A. Introduced by Price, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 37, Ninety-eighth Legislature, First Session, 2003.

GENERAL FILE

LEGISLATIVE RESOLUTION 14CA. Read. Considered.

Senators Foley and McDonald asked unanimous consent to be excused until they return. No objections. So ordered.

Pending.

ANNOUNCEMENT

Senator Kruse designates LB 208 as his priority bill.

SPEAKER'S ANNOUNCEMENT

Pursuant to Rule 4, Section 8, LR 39 was referred to the Reference Committee.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 449A. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 449, Ninety-eighth Legislature, First Session, 2003.

STANDING COMMITTEE REPORTS
Banking, Commerce and Insurance

LEGISLATIVE BILL 511. Placed on General File.

LEGISLATIVE BILL 248. Placed on General File as amended.
Standing Committee amendment to LB 248:
AM0574

- 1 1. On page 4, line 10, after the period insert "As part
2 of developing the system, the State Treasurer shall establish an
3 Internet auction website by contracting with an Internet service
4 provider or internally establishing the website on behalf of the
5 state investment officer. The website shall use forms approved by
6 the party with statutory responsibility for the funds. Advertising
7 or promotional materials for the competitive bidding process shall
8 refer only to the State of Nebraska and shall not refer to any
9 specific state agency, office, or officeholder."; in line 19 after
10 the period insert "(1)" and reinstate the stricken matter; and in
11 lines 19 and 20 strike the new matter.
- 12 2. On page 5, strike lines 2 through 8 and insert the
13 following new subsection:
14 "(2) Competitive bidding may also be used to establish
15 the rate of interest on the available remaining funds for
16 investment under the Nebraska Capital Expansion Act. At the time
17 of investment, the interest rate under this subsection shall be a
18 rate not less than the prevailing market interest rate as offered
19 in subsection (1) of this section.".

LEGISLATIVE BILL 446. Indefinitely postponed.

LEGISLATIVE BILL 490. Indefinitely postponed.

LEGISLATIVE BILL 715. Indefinitely postponed.

(Signed) Mark Quandahl, Chairperson

AMENDMENTS - Print in Journal

Senator Schimek filed the following amendment to LR 14CA:
AM0560

- 1 1. On page 2, strike lines 23 through 27 and insert the
2 following new subdivision:
3 "(a) Casino gaming includes games of chance played for
4 money, credit, or any representative of value using cards; dice;
5 equipment; play-activated electronic, video, or mechanical gaming
6 devices; and other methods authorized by the Legislature; and".
- 7 2. On page 3, lines 8 and 17, after "restrict" insert
8 "casino"; in line 13 after "such" insert "casino"; in line 22 after
9 "of" insert "casino"; in line 24 after "the" insert "state's tax";
10 in line 25 after "from" insert "casino"; and in line 27 after

11 "which" insert "casino".
12 3. On page 4, line 2, after "conduct" insert "casino";
13 strike beginning with the first "or" in line 4 through "tribal" in
14 line 5 and insert "any tribal gaming"; in line 10 after "define"
15 insert "casino"; in line 12 after "permit" insert "casino"; and
16 strike line 14 and insert "the state's tax revenue from casino
17 gaming."

Senator Schrock filed the following amendment to LB 165:
AM0561

1 1. Insert the following new sections:
2 "Section 1. It is the intent of the Legislature that
3 costs incurred by the State of Nebraska attributable to the
4 shipment of high-level radioactive waste and transuranic waste in
5 or through the state shall be borne by the shipper.
6 Sec. 2. For purposes of sections 1 to 5 of this act:
7 (1) Department means the Department of Health and Human
8 Services Regulation and Licensure;
9 (2) High-level radioactive waste has the definition found
10 in section 81-1589; and
11 (3) Transuranic waste means waste material containing
12 alpha-emitting radioactive elements having an atomic number greater
13 than 92 in concentrations greater than ten nanocuries per gram.
14 Sec. 3. Until January 1, 2005, a fee of two thousand
15 dollars shall be assessed on each cask of high-level radioactive
16 waste or transuranic waste shipped in or through the state, whether
17 shipped by motor carrier or rail. On and after January 1, 2005,
18 the department shall establish and assess fees on all high-level
19 radioactive waste and transuranic waste shipped by any means in or
20 through the state. Such fees shall be equitable and shall be used
21 for purposes related to (1) shipping of high-level radioactive
22 waste and transuranic waste, including, but not limited to,
23 inspections, escorts, and security for waste shipment, planning,
24 and maintenance, (2) coordination of emergency response capability,
1 (3) education and training, (4) purchase of necessary equipment,
2 and (5) administrative costs attributable to the state agencies
3 which are incurred as related to the shipping of high-level
4 radioactive waste and transuranic waste. Fees assessed pursuant to
5 this section shall be paid in advance of shipment by the shipper.
6 Fees collected by the department under this section shall be
7 remitted to the State Treasurer for credit to the Radiation
8 Transportation Emergency Response Cash Fund.
9 Sec. 4. The Radiation Transportation Emergency Response
10 Cash Fund is created. The fund shall consist of fees credited
11 pursuant to section 3 of this act. The fund shall be used for the
12 purposes stated in such section. The Director-State Engineer, the
13 Superintendent of Law Enforcement and Public Safety, the Director
14 of Regulation and Licensure, the Adjutant General as director of
15 the Nebraska Emergency Management Agency, and the executive

16 director of the Public Service Commission, or their designees,
 17 shall meet at least annually to recommend changes in the fees
 18 charged and allocation of the fees collected among participating
 19 agencies based upon their respective costs in carrying out such
 20 section. Any money in the fund available for investment shall be
 21 invested by the state investment officer pursuant to the Nebraska
 22 Capital Expansion Act and the Nebraska State Funds Investment Act.
 23 Sec. 5. The department may adopt and promulgate rules
 24 and regulations to carry out sections 1 to 4 of this act.
 25 Sec. 6. Sections 1 to 5 of this act do not apply to
 26 high-level radioactive waste or transuranic waste shipped by or for
 27 the United States Government for military, national security, or
 1 national defense purposes. Sections 1 to 5 of this act do not
 2 require disclosure of defense information or restricted data as
 3 defined in the federal Atomic Energy Act of 1954.
 4 Sec. 8. Sections 7 and 9 of this act become operative
 5 three calendar months after adjournment of this legislative
 6 session. The other sections of this act become operative on their
 7 effective date.
 8 Sec. 10. Since an emergency exists, this act takes
 9 effect when passed and approved according to law."
 10 2. Renumber the remaining sections accordingly.

Senator Schrock filed the following amendment to LB 165:
 AM0562

1 1. Strike original section 2 and insert the following
 2 new sections:
 3 "Section 1. Section 18-2410, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 18-2410. Municipality shall mean (1) any city or village
 6 incorporated under the laws of this state or any equivalent entity
 7 incorporated under the laws of another state or (2) any public
 8 entity organized under Chapter 70, article 6, and incorporated
 9 under the laws of this state for the sole purpose of providing
 10 wholesale electric energy to a single municipality which is
 11 incorporated under the laws of this state.
 12 Sec. 2. Section 18-2427, Reissue Revised Statutes of
 13 Nebraska, is amended to read:
 14 18-2427. Upon adoption of ordinances in accordance with
 15 section 18-2420, a petition shall be addressed to the Nebraska
 16 Power Review Board stating that it is the intent and purpose to
 17 create an agency pursuant to sections 18-2426 to 18-2434, subject
 18 to approval by the Nebraska Power Review Board. The petition shall
 19 state the name of the proposed agency, the names of the proposed
 20 participating municipalities, ~~the percentage of each participating~~
 21 ~~municipality's total annual firm power requirements provided from a~~
 22 ~~source other than a district or corporation organized pursuant to~~
 23 ~~Chapter 70, article 6, 7, or 8, during each of the five calendar~~
 24 ~~years preceding May 1, 1981,~~ the name and residence of each of the

1 directors so far as known, a certified copy of each of the
2 ordinances of the participating municipalities determining the need
3 for such an agency, a certified copy of the proceedings of each
4 municipality evidencing the director's right to office, a general
5 description of the operation in which the agency intends to engage,
6 and the location and method of operation of the proposed plants and
7 systems of the agency.

8 Sec. 3. Section 18-2430, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 18-2430. ~~If any of the participating municipalities in~~
11 ~~the agency has not received at least fifty percent of its total~~
12 ~~annual firm power requirements for any one of the five years~~
13 ~~preceding May 1, 1981, from a source other than a district or~~
14 ~~corporation organized pursuant to Chapter 70, article 6, 7, or 8,~~
15 ~~the Nebraska Power Review Board, upon receipt of such petition,~~
16 ~~shall make an investigation of the proposed agency and its proposed~~
17 ~~plants and systems. If the Nebraska Power Review Board determines~~
18 ~~that the statements in the petition filed pursuant to section~~
19 ~~18-2427 are true and conform to public convenience and welfare and,~~
20 ~~so long as the plants, systems, and works, the operation of the~~
21 ~~same, the exercise of powers, and the assumption of duties and~~
22 ~~responsibilities of, or on the part of, such agency, do not~~
23 ~~nullify, conflict with, or materially affect those of a district or~~
24 ~~corporation organized under the provisions of Chapter 70, article~~
25 ~~6, 7, or 8 or the Electric Cooperative Corporation Act, the~~
26 ~~Nebraska Power Review Board or its successor shall, within thirty~~
27 ~~days after the receipt of such petition, execute a certificate in~~
1 duplicate setting forth a true copy of the petition and declaring
2 that the petition has been approved.

3 Sec. 4. Section 18-2433, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 18-2433. (1) A petition for the creation of an agency
6 which intends to engage in the operation of power projects or the
7 generation or supply of electrical energy may be amended as
8 provided in this section. Upon a majority vote of the directors,
9 an agency may amend its petition for creation or may amend its
10 charter to provide for a change in the general description of the
11 nature of the business in which the agency is engaged, upon
12 petition to the Nebraska Power Review Board and approval by the
13 Nebraska Power Review Board in accordance with the procedure
14 established in sections 18-2426 to 18-2434.

15 (2) ~~With respect to the formation, organization, or~~
16 ~~operation of power projects or the generation or supply of electric~~
17 ~~energy, the amendments shall be approved if each new proposed~~
18 ~~participating municipality has for any one year during the five~~
19 ~~calendar years preceding May 1, 1981, received at least fifty~~
20 ~~percent of its total annual firm power requirements from a source~~
21 ~~other than a district or a corporation organized pursuant to~~
22 ~~Chapter 70, article 6, 7, or 8, and the statements in the petition~~

23 are deemed by the Nebraska Power Review Board to be true.

24 (3) If any new proposed municipality has not received at
25 least fifty percent of its total annual firm power requirements for
26 any one of the five calendar years preceding May 1, 1981, from a
27 source other than a district or corporation organized pursuant to
1 Chapter 70, article 6, 7, or 8 After notice to interested parties
2 and a public hearing which may be held at the option of the
3 Nebraska Power Review Board, such amendments shall be approved if
4 the board Nebraska Power Review Board, after notice to interested
5 parties and a public hearing, determines that the statements in the
6 petition are true and conform to public convenience and welfare,
7 and so long as the plants, systems, and works, the operation of the
8 same, the exercise of powers, and the assumptions of duties and
9 responsibilities of, or on the part of, such agency, do not
10 nullify, conflict with, or materially affect those of any other
11 district or a corporation organized under the provisions of Chapter
12 70, article 6, 7, or 8 or the Electric Cooperative Corporation Act,
13 or those of any part of such district or corporation.

14 Sec. 5. Section 18-2446, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 18-2446. (1) Money of the agency shall be paid out or
17 expended only upon the authorization or approval of the board of
18 directors by specific agreement, a written contract, or by a
19 resolution. All money of the agency shall be paid out or expended
20 only by check, draft, warrant, or other instrument in writing,
21 signed by the treasurer, assistant treasurer, or such other
22 officer, employee, or agent of the agency as shall be authorized by
23 the treasurer to sign in his or her behalf. Such authorization
24 shall be in writing and filed with the secretary of the agency.
25 (2) Money of the agency paid out or expended shall be
26 examined by the board of directors at a the next regular meeting
27 within two months following such expenditure.

1 (3) In the event that there is no treasurer's bond that
2 expressly insures the agency against loss resulting from the
3 fraudulent, illegal, negligent, or otherwise wrongful or
4 unauthorized acts or conduct by or on the part of any and every
5 person authorized to sign checks, drafts, warrants, or other
6 instruments in writing, there shall be procured and filed with the
7 secretary of the agency, together with the written authorization
8 filed with the secretary of the board, a surety bond, effective for
9 protection against such loss, in such form and penal amount and
10 with such corporate surety as shall be approved in writing by the
11 signed endorsement thereon of any two officers of the agency other
12 than the treasurer. The secretary shall report to the board at
13 each meeting any such bonds filed, or any change in the status of
14 any such bonds, since the last previous meeting of the board.

15 Sec. 7. Original sections 18-2427, 18-2430, 18-2433,
16 18-2446, and 70-627.02, Reissue Revised Statutes of Nebraska, are
17 repealed.

- 18 Sec. 8. The following section is outright repealed:
19 Section 18-2429, Reissue Revised Statutes of Nebraska."
20 2. Renumber the remaining section accordingly.

Senator Loudon filed the following amendment to LR 11CA:
AM0569

(Amendments to Standing Committee amendments, AM0298)

- 1 1. On page 1, line 3, after the first "gaming" insert
2 "to be conducted in licensed casinos in every county in the State
3 of Nebraska"; and in line 7 after the first period insert "The
4 county board of each county may grant licenses to operate casinos
5 in the manner prescribed by the Legislature.".

UNANIMOUS CONSENT - Add Cointroducers

Senators McDonald and Preister asked unanimous consent to have their names added as cointroducers to LB 111. No objections. So ordered.

Senator Preister asked unanimous consent to have his name added as cointroducer to LB 487. No objections. So ordered.

VISITORS

Visitors to the Chamber were Adam and Terry Stake from Beatrice; Leslie Schacht from Lincoln Southeast High School; and Bill Luckey, Ed Klug, Ryan Loseke, and Alan Jedlicka from Columbus.

ADJOURNMENT

At 11:57 a.m., on a motion by Senator Byars, the Legislature adjourned until 9:00 a.m., Thursday, February 27, 2003.

Patrick J. O'Donnell
Clerk of the Legislature

